

# STATE OF INDIANA



INDIANA UTILITY REGULATORY COMMISSION  
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**FILED**

DEC 29 2004

INDIANA UTILITY  
REGULATORY COMMISSION

CAUSE NO. 42144

IN THE MATTER OF THE INVESTIGATION )  
ON THE COMMISSION'S OWN MOTION, UNDER )  
INDIANA CODE § 8-1-2-72, INTO ANY AND ALL )  
MATTERS RELATING TO THE COMMISSION'S )  
MIRRORING POLICY ARTICULATED IN )  
CAUSE NO. 40785 AND THE EFFECT OF THE )  
FCC'S MAG ORDER ON SUCH POLICY, )  
ACCESS CHARGE REFORM, UNIVERSAL )  
SERVICE REFORM, AND HIGH COST OR )  
UNIVERSAL SERVICE FUNDING )  
MECHANISMS RELATIVE TO TELEPHONE )  
AND TELECOMMUNICATIONS SERVICES )  
WITHIN THE STATE OF INDIANA )

You are hereby notified that on this date the Indiana Utility Regulatory Commission ("Commission") has caused the following entry to be made:

On December 15, 2004, Smithville Telephone Company Inc., Daviess-Martin County Rural Telephone Corp., Rochester Telephone Company, Inc. and Clay County Rural Telephone Cooperative, Inc. (collectively the "Smithville Group") filed a *Motion for Stay Pending Appeal* ("Motion for Stay") in this Cause.

On December 28, 2004, Intervenor, Cellco Partnership, a Delaware Corporation, d/b/a Verizon Wireless ("Verizon Wireless") filed a *Joint Motion of Verizon Wireless, Nextel West Corp., Omnipoint Holdings, Inc. d/b/a T-Mobile, Voicestream GSM I Operating Company, Inc. d/b/a T-Mobile, Voicestream Columbus, Inc. d/b/a T-Mobile and Powertel Kentucky Inc. d/b/a T-Mobile, and U.S. Cellular Corporation for Extension of Time to File Response to "Motion for Stay Pending Appeal"* ("Wireless Motion" parties collectively referred to as the "Wireless Carriers") in the above captioned Cause. The Motion requests that the Commission extend by 15 days, to and including January 12, 2005, the time within which these Intervenor may file a Response to the Motion for Stay.

Also on December 28, 2004, Joint Movants, AT&T Communications of Indiana G.P and TCG Indianapolis (collectively "AT&T"), Indiana Bell Telephone Company, Incorporated, d/b/a SBC Indiana ("SBC Indiana"), the Indiana Exchange Carrier Association, Inc. ("INECA") and Sprint Communications Company, L.P. and United Telephone Company of Indiana, Inc., d/b/a Sprint (collectively "Sprint") (hereafter all collectively the "Settling Parties"), by their respective counsel, filed a *Joint Verified Motion of Settling Parties for Extension of Time to Respond to Motion for Stay Pending Appeal* ("Motion") in the above captioned Cause. In their Motion, the Settling Parties request an extension of time through and including Wednesday, January 12, 2005, within which to respond to the Motion for Stay.

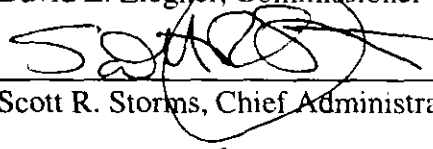
Each of the Motions reference difficulty in contacting clients in support of the requested relief, and deficiencies in the service list attached to the Motion for Stay that resulted in certain individuals not receiving the filing in a timely manner. In their Motion the Settling Parties indicate that the service list attached to the Motion for Stay includes significantly less than all of the parties' counsel that have appeared in this proceeding. The service list omitted counsel for Sprint as well as all counsel representing the various wireless carriers in this Cause. The service list also contained the former mailing address for outside counsel for SBC Indiana. In addition, in-house counsel for SBC Indiana was totally omitted from the service list. The Settling Parties go on to indicate that this is not the first time in this proceeding that counsel for the Smithville Group has used an outdated or incomplete service list when filing a document with the Commission. Because of the deficient service list, numerous other parties' counsel have apparently not received service of the Motion for Stay. SBC Indiana's counsel did not receive a copy of the Motion until Tuesday, December 21, 2004 – six days after it was filed with the Commission.

Pursuant to 170 IAC 1-1.1-13(i), a dated certificate of service must accompany and be attached to each pleading or other document filed with the commission when service is required and shall identify those served. According to 170 IAC 1-1.1-13(d), all pleadings, briefs, and other documents filed in proceedings pending before the commission shall be served on all parties in the proceeding on the same day the pleading, brief, or other document is filed with the commission, except as may be otherwise ordered by the commission. Service shall be made to each party by delivering in person or by mailing a copy by United States mail, properly addressed with postage prepaid, or as otherwise agreed to by the parties. In a proceeding where an attorney has filed a pleading or other document on behalf of a party or has entered an appearance under section 7 of this rule, any notice or other written communication required to be served on or furnished to the party shall be served upon or furnished to the attorney in the same manner as prescribed for the party. 170 IAC 1-1.1-13(e).

Based on our review of the Motion for Stay and the motions for extensions of time filed by the Wireless Carriers and the Settling Parties it appears that the Motion for Stay was not properly served on the parties to this proceeding in conformance with the Commission's procedural rules. This fact alone merits the extension requested by the parties. The intervening holidays further support a determination that an extension of time should be granted. Therefore, the Presiding Officers find that the motions for extension of time filed by the Wireless Carriers and the Settling Parties should be granted. The Settling Parties and Wireless Carriers should file their response to the Motion for Stay on or before January 12, 2005.

**IT IS SO ORDERED.**

  
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David E. Ziegner, Commissioner

  
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Scott R. Storms, Chief Administrative Law Judge

Date: December 29, 2004